

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6670
BILL NUMBER: HB 1153

NOTE PREPARED: Feb 27, 2008
BILL AMENDED: Feb 26, 2008

SUBJECT: Gambling.

FIRST AUTHOR: Rep. Tyler
FIRST SPONSOR: Sen. Meeks

BILL STATUS: As Passed Senate

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Gambling in Taverns* - The bill specifies that Type II Gambling may be conducted by taverns that are issued a retailer's endorsement that is affixed to the tavern owner's alcoholic beverage permit. It specifies that the Alcohol and Tobacco Commission Administers Type II Gambling. The bill provides that the authorized sale of pull tabs, punchboards, and tip boards is exempt from the state gross retail tax. It provides that fees and civil penalties must be deposited into the Excise Enforcement and Administration Fund. It also provides that excise taxes must be deposited into the State General Fund.

Charity Gambling - The bill requires the Indiana Gaming Commission to adopt rules to establish the manner in which a qualified organization may supervise certain euchre games. It provides that a patron who deals the cards in the euchre game is not considered to be a worker or an operator for purposes of the charity gambling law. The bill requires a qualified organization to designate an individual to serve as the operator of a charity gambling event. It provides that a qualified organization holding an annual raffle license may conduct raffles at any time during a period of one year. It also authorizes certain qualified organizations to conduct winner take all drawings under a PPT license.

Horsemen's Revenue from Slot Machines - The bill specifies that certain slot machine revenues paid to horsemen's associations may not be used for political contributions or lobbying.

Effective Date: July 1, 2008.

Explanation of State Expenditures: *Gambling in Taverns* - Under the bill, the Alcohol and Tobacco Commission (ATC) is given the power and duty to administer, regulate, and enforce the operation of Type II gambling games in taverns. The bill defines a Type II gambling game as a pull tab (ticket or card),

punchboard, or tip board game. The bill creates a retailer's endorsement that the ATC is to provide to an alcohol beverage retail permit holder for an establishment that qualifies under the bill as a tavern allowing the retailer to conduct Type II gambling games at the tavern. The bill also creates the following two licenses to be administered by the ATC: (1) a distributor's license to distribute the Type II gambling games in Indiana and (2) a manufacturer's license to manufacture Type II gambling games in Indiana. Under the bill, investigative costs for a Type II gambling retailer's endorsement is to be paid by the license applicant. To obtain a license to be a distributor or manufacturer of Type II gambling games, an applicant must already be licensed by the Indiana Gaming Commission as a distributor or manufacturer of pull tabs, punchboards, and tip boards for purposes of charity gambling in Indiana. The bill also requires the Indiana State Police, the Indiana Gaming Commission, and the Indiana Professional Licensing Agency to assist in investigative duties of the ATC, if so requested.

The bill requires all fees and civil penalties relating to Type II gambling to be deposited in the ATC's Enforcement and Administration Fund. Under current statute, the money in this Fund must be used solely for the administration of the state's alcohol and tobacco laws.

Explanation of State Revenues: Summary - The bill could potentially generate revenue from: (1) Type II gambling retailer's endorsement fees; (2) Type II gambling distributor's and manufacturer's license fees; (3) Type II Gambling Game Excise Taxes; and (4) civil penalties relating to Type II gambling. Type II gambling games are pull tab (tickets or cards), punchboard, and tip board games. The revenue from endorsement and license fees, and civil penalties, is to be deposited in the ATC's Enforcement and Administration Fund. Excise tax revenue is to be deposited in the state General Fund.

The amount of revenue that may be generated by retailer's endorsement fees and the excise tax is indeterminable. The license fees on distributors and manufacturers could potentially generate between \$70,000 and \$80,000 annually.

Type II Gambling Fees - The bill creates a retailer's endorsement to conduct Type II gambling games in a tavern; and licenses to distribute or to manufacture Type II gambling games in Indiana.

The retailer's endorsement could be obtained by an alcoholic beverage retail permit holder that qualifies under the bill as a tavern. The bill prohibits horse racetracks, OTBs, riverboat casinos, organizations qualified to conduct charity gambling, and various other retail alcohol permit holders from obtaining the retailer's endorsement. The other prohibited permit holders include social and fraternal clubs, hotels, and microbreweries. The fee for an initial retailer's endorsement is \$250, with annual renewal license fee ranging from \$50 to \$26,000 depending on the adjusted gross gambling revenue generated by a retailer in the preceding year. (See *Background Information* section below for discussion of retailer endorsement renewal fees.) The number of alcoholic beverage retail permit holders that could potentially qualify as a tavern under the bill and apply for a retailer's endorsement is indeterminable.

The distributor's license and manufacturer's license could be obtained by a person licensed as a distributor or manufacturer for purposes of charity gambling in Indiana. The annual license fee for a distributor is \$1,000, and for a manufacturer is \$1,500. Based on FY 2006 licensing of charity gambling product distributors and manufacturers, these license fees could potentially generate about \$77,000 annually. In FY 2006 there were 53 licensed distributors and 16 licensed manufacturers of charity gambling products.

The initial retailer's endorsement fee is \$250. The annual renewal endorsement fee for a retailer is determined on the fee schedule below and depends on the adjusted gross revenue (AGR) generated by a

retailer from Type II gambling games in the preceding year. The bill provides that a retailer's annual AGR is equal to the retailer's annual gross revenue from Type II gambling games during the year minus: (1) the total value of game prizes awarded during the year; (2) the sum of the purchase prices of games dispensed during the year; and (3) the total license fees paid by the retailer during the year. The renewal fee schedule is specified in the table below.

Annual AGR equals at least:	Annual AGR is less than:	Proposed Fee
\$0	\$15,000	\$50
15,000	25,000	100
25,000	50,000	300
50,000	75,000	400
75,000	100,000	700
100,000	150,000	1,000
150,000	200,000	1,500
200,000	250,000	1,800
250,000	300,000	2,500
300,000	400,000	3,250
400,000	500,000	5,000
500,000	750,000	6,750
750,000	1,000,000	9,000
1,000,000	1,250,000	11,000
1,250,000	1,500,000	13,000
1,500,000	1,750,000	15,000
1,750,000	2,000,000	17,000
2,000,000	2,250,000	19,000
2,250,000	2,500,000	21,000
2,500,000	3,000,000	24,000
3,000,000		26,000

Type II Gambling Game Excise Tax - The excise tax is equal to 10% of the price paid by a retailer for Type II gambling games. The revenue that the excise tax would generate is indeterminable and depends on the number of alcoholic beverage retail establishments that obtain Type II gambling endorsements and their sales volume.

The bill requires all revenue from the excise tax to be deposited in the state General Fund.

Other Revenue from Type II Gambling - The bill could potentially increase sales of pull tab, punchboard, and tip board games, increasing income tax revenue from any manufacturers and distributors located in Indiana. Conducting these games also could increase the income of the retailers, resulting in increased income tax revenue. Revenue from the Adjusted Gross Income (AGI) Tax is deposited in the state General Fund and the Property Tax Replacement Fund.

If allowing operation of pull tab, punchboard, and tip board games in alcoholic beverage retail establishments increases sales, revenue from the Alcoholic Beverage Excise Tax may increase. Alcoholic Beverage Excise Tax revenue is deposited in the state General Fund, the Post War Construction Fund, the Alcohol and Tobacco Commission's Enforcement and Administration Fund, the Pension Relief Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund.

Penalty Provisions - Type II Gambling: The bill establishes a Class A misdemeanor for: (1) making false statements on an application for a license; (2) operating Type II gambling games in a manner other than required by law; (3) permitting gambling by persons under 21 on Type II gambling games; and (4) accepting wagers on Type II gambling games off the retailer's licensed premises.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), public defense administration fee (\$3), court administration fee (\$3), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Civil Penalties - Type II Gambling: The bill also allows the ATC to levy a civil penalty against a licensee for specified violations of the Type II gambling law. The penalty can't exceed \$1,000 for the first violation; \$2,500 for the second violation; and \$5,000 for each additional violation. Penalties would be deposited in the ATC's Enforcement and Administration Fund.

Explanation of Local Expenditures: *Penalty Provisions* - The bill establishes a Class A misdemeanor for specified Type II gambling violations. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Penalty Provisions* - The bill establishes a Class A misdemeanor for specified Type II gambling violations. If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Alcohol and Tobacco Commission; Indiana Gaming Commission; Professional Licensing Agency; Indiana State Police.

Local Agencies Affected: Trial courts and local law enforcement agencies; county treasurers.

Information Sources: Vicki Stephens, Alcohol and Tobacco Commission, (317) 232-2436; *Charity Gaming Annual Report, FY 2005 and FY 2006*, Indiana Gaming Commission; Indiana Sheriffs' Association; Department of Correction.

Fiscal Analyst: Jim Landers, 317-232-9869.